

REMARKS/ARGUMENTS

Original claims 1-80 stand rejected while claims 1-13 stand objected to. By this amendment, claims 1-14, 26, 35, 37, 40, 43, 52, 62 and 75 are amended. In particular, claims 1, 14, 26, 35, 43, 52, 62 and 75 are amended to better define Applicant's invention, claims 2-13 are amended to correct certain informalities and claims 37 and 40 are amended to provide clear antecedent basis for one or more terms therein. These amendments are not made for patentability purposes. No new matter has been added. As a result, claims 1-80 are pending and at issue. Applicants respectfully request reconsideration and favorable action in this case.

As an initial matter, claims 2-13 are amended in their respective preambles to recite a "stud finder" instead of an "attachment" and claim 13 is further amended in line 3 to recite "the stud finder" instead of "a stud finder". Applicant's respectfully request withdrawal of the objection of claims 1-13.

Additionally, Applicants enclose a supplemental IDS along with the fee required under 37 CFR 1.97(c)(2) for consideration of the documents listed in this IDS. The examiner's consideration of this information is respectfully requested.

Response To Rejections Of Claims Under 35 U.S.C. § 102 and § 103

Applicants respectfully traverse the rejection of claims 1-67 as anticipated by U.S. Patent Publication No. 2004/0016058 to Gardiner et al. ("Gardiner") or as obvious over Gardiner in view of one or more of EPO Patent No. 416162 to Chen ("Chen"), US Patent No. 6,266,006 to Audet et al. ("Audet"), U.S. Patent Publication No. 2003/0106159 to Ackeret et al. ("Ackeret"), U.S. Patent No. 6,502,319 to Goodrich et al. ("Goodrich") and U.S. Patent No. 5,713,135 to Acopulos ("Acopulos"), collectively the "cited art".

Each of claims 1-67 recites a stud finder or a structural detector having a light generating device or a leveling device removably mounted thereto and which is operable with either the light generating device or the leveling device attached thereto, or recites a method that locates at least one concealed feature behind a wall using a structural detector while a leveling device is mounted thereto. None of the cited art discloses or suggests a stud finder and a removably connected light generating device or a leveling device which is operable while the light generating device or the leveling device is mounted thereto.

While Gardiner discloses a removable, multi-function module 14 which may include a stud finder module 414, the stud finder module 414 is not operable when attached to the housing 12 (paragraph 61, lines 3-7). In fact, Gardiner specifically states that the module 414 will be stored face down (and therefore concealed) when connected to the housing for protection. Additionally, it is clear that the user must remove the module 414 from the housing 12 to use the module 414 (see paragraph 60, lines 5-7). For this reason, the multi-function module 414 is not operable when attached to the housing 12. Because Gardiner does not disclose a stud finder which is operable with either a light generating device or a leveling device attached thereto, Gardiner can not anticipate any of claims 1-67.

Likewise, none of Chen, Audet, Ackeret, Goodrich or Acopulos discloses a stud finder or a structural detector having a light generating device or a leveling device removably attached thereto and which is operable with the light generating device or the leveling device attached thereto, or a method that locates at least one concealed feature behind a wall or other surface using the structural detector while a leveling device is mounted thereto. In particular, none of Chen, Audet, Ackeret, or Acopulos discloses a light generating device or a leveling device being used in any manner with a stud finder. Furthermore, the light generating devices of Chen, Audet, Ackeret, and Acopulos are not removably mounted to any structure, much less to a device including a stud finder or a structural detector. While Goodrich discloses a stud finder and a light generating device combination, Goodrich does not disclose or suggest that the stud finder and light generating devices could or should be removably mounted to one another, much less a manner of providing such a removable connection structure.

The prior art must disclose at least a suggestion of or an incentive for the claimed combination of elements to establish a *prima facie* case of obviousness. See *In re Sernaker*, 217 U.S.P.Q. 1 (Fed. Cir. 1983) and *Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. 1985). Because none of the cited art discloses a stud finder or a structural detector which is operable with either a light generating device or a leveling device removably attached thereto, or a method for locating at least one concealed feature behind a wall or other surface using a structural detector while a leveling device is mounted thereto, none of claims 1-67 is rendered obvious by any combination of the cited art.

Applicants respectfully traverse the rejections of claims 68-74 as obvious over Gardiner in view of Audet. Each of claims 68-74 recites a stud finder having a connection structure and a surface and a normally-open switch protruding through the surface. None of the cited art discloses a stud finder having a connection structure and a surface with a normally-open switch protruding through the surface.

While Gardiner discloses a stud finder, it does not disclose a switch of any kind, much less a normally-open switch protruding through a surface of the stud finder. Moreover, Audet fails to teach the use of a connecting structure with the device disclosed therein. Furthermore, Applicants respectfully disagree with the examiner that Audet teaches a normally-open switch. In fact, Audet describes a switch as a push button operator (column 3, line 8) and therefore as a two position switch. There is nothing in Audet that suggests that the switch thereof is or should be a normally-open switch. Generally speaking, Audet discloses an arrow finder, which is basically a metal detector. As a result, Audet's device would be used in an open area by waving the device over the ground without touching the ground, not by being held against a surface as is typically the case with the applicant's device. Use of the Audet device would be hampered by having a normally-open switch, as such a normally-open switch would force the operator to hold the switch down while waving the device back and forth over the ground, which would be both awkward and inefficient for such a device. Instead, a push button switch, wherein pushing the switch once turns the device on and pushing the switch a second time turns the device off, makes more sense in the Audet device. In any event, Audet fails to disclose or suggest any reason for changing the two position push button switch thereof to a normally open switch. Therefore, Applicants respectfully submit that the combination of Gardiner and Audet does not render any of claims 68-74 obvious.

Applicants respectfully traverse the rejections of claims 75-80 as obvious over Gardiner in view of Audet. Each of claims 75-80 now recites a stud finder having a housing with a housing surface which is adapted to be disposed adjacent to a structural surface, and a normally-open switch protruding through the housing surface. Neither Gardiner nor Audet discloses a stud finder with a normally-open switch protruding through a housing surface which is adapted to be disposed adjacent the wall or structural surface behind which structural members or other objects are to be detected.

While Gardiner discloses a stud finder including a housing surface, the Gardiner device does not include a switch of any kind (much less a normally-open switch) protruding through the housing surface that is to be disposed adjacent to a structural surface during the use of the stud finder. Audet fails to disclose or suggest a stud finder of any kind, but instead discloses an arrow detector, which may be a metal detector. Even if the device of Audet could be used as a stud finder, the Audet device does not include a normally-open switch protruding through the housing surface adapted to be disposed adjacent to a structural surface. Instead, the switch on the Audet device (which is not a normally-open switch) is located on the handle portion of the device (Fig. 1), and would therefore not be adjacent to the structural surface being scanned even if the Audet device were used to detect objects behind a wall or other surface. Further, Audet does not disclose or suggest locating the switch on any other surface of the housing.

Generally speaking, the normally-open switch protruding through the stud finder housing surface that is to be placed adjacent the wall or other surface being scanned enables the claimed stud finder to be automatically activated when placed against the surface to be scanned, which makes use of the stud finder easier for the person holding the stud finder. Neither Gardiner nor Audet provides any suggestion of or any motivation for providing an automatic activation feature, much less one using a normally-open switch protruding through a housing surface of the stud finder. Because neither Gardiner nor Audet discloses or suggests a stud finder including a normally-open switch protruding through housing surface adapted to be disposed adjacent to a structural surface, no combination of Gardiner and Audet renders any of claims 75-80 obvious.

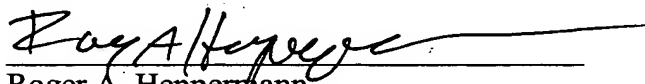
Conclusion

Applicants have made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons, Applicants respectfully request reconsideration and allowance of claims 1-80.

If there are matters that can be discussed by telephone to further the prosecution of this application, Applicants respectfully request that the Examiner call its attorney at the number listed below. If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855 of Marshall, Gerstein & Borun LLP. A copy of this paper is enclosed herewith.

Respectfully submitted,

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